

## Message Text

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65

ACTION L-03

INFO OCT-01 EUR-12 ISO-00 OES-03 JUSE-00 CIAE-00 COME-00

DODE-00 DOTE-00 EB-07 FMC-01 INR-07 NSAE-00 CG-00

OFA-01 DLOS-04 /039 W

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R 051003Z FEB 76

FM AMEMBASSY LONDON

TO SECSTATE WASHDC 8731

C O N F I D E N T I A L LONDON 01808

E.O. 11652: GDS

TAGS: EWWT, IMCO, UK

S/SUBJECT: SOVIET RESERVATION TO CIVIL LIABILITY  
CONVENTION

REF: (A) 75 STATE 246569, (B) 75 LONDON 16657

1. IN LINE WITH THE PLAN REPORTED PARA (2) REF (B),  
THE UK EMBASSY IN MOSCOW HAS APPROACHED SOVIET AUTHORI-  
TIES TO OBTAIN AN EXPLANATION OF THE SOVIET INTENTION  
IN MAKING RESERVATION TO CIVIL LIABILITY CONVENTION  
DESCRIBED DEPT. REFTEL. A COPY OF THE RESPONSE OF THE  
SOVIET MINISTRY OF FOREIGN AFFAIRS AND TWO MEMORANDA  
PROVIDING THE VIEWS OF UK FOREIGN AND COMMONWEALTH  
OFFICE (FCO) LEGAL ADVISERS ON THE SOVIET POSITION HAVE  
BEEN GIVEN TO US BY THE FCO. COPIES OF THESE ARE BEING  
FORWARDED TO DEPT. (EB/TT/MA) UNDER COVER LONDON A-7L.

2. THE MAIN POINT MADE IN THE SOVIET RESPONSE IS AS  
FOLLOWS:

BEGIN QUOTE: IN ACCORDANCE WITH ARTICLE III AND OTHER  
PROVISIONS OF THE 1969 CONVENTION, THE LIABILITY ESTAB-  
LISHED BY THE CONVENTION FOR OIL POLLUTION DAMAGE IS  
LAID ON THE "OWNER OF THE VESSEL" WHICH CAUSED THE  
DAMAGE AND POINT 3 OF ARTICLE I OF THE CONVENTION FORE-  
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SEES THAT "IN THE CASE OF A SHIP OWNED BY A STATE AND

OPERATED BY A COMPANY WHICH IN THAT STATE IS REGISTERED AS THE SHIP'S OPERATOR, 'OWNER' SHALL MEAN SUCH COMPANY." SINCE IN THE USSR STATE VESSELS USED FOR COMMERCIAL PURPOSES ARE UNDER THE OPERATIONAL MANAGEMENT OF STATE ORGANIZATIONS, WHICH BEAR INDEPENDENT RESPONSIBILITY ACCORDING TO THEIR OBLIGATIONS, ACTIONS ABOUT COMPENSATION FOR OIL POLLUTION DAMAGE CAN BE BROUGHT IN ACCORDANCE WITH THE 1969 CONVENTION ONLY AGAINST THOSE ORGANIZATIONS AND NOT AGAINST THE SOVIET STATE. THUS, THE ABOVE-MENTIONED RESERVATION DOES NOT HINDER CONSIDERATION IN FOREIGN COURTS, IN ACCORDANCE WITH THE JURISDICTION ESTABLISHED IN THE CONVENTION, OF ACTIONS ON CLAIMS FOR DAMAGE CAUSED BY COMMERCIAL VESSELS WHICH ARE THE PROPEPTY OF THE SOVIET STATE. END QUOTE.

3. WHILE NO UK DECISION HAS YET BEEN MADE, IN CONSIDERATION OF THE SOVIET STATEMENT WHICH INDICATES THAT SOVIET STATE VESSELS USED FOR COMMERCIAL PURPOSES ARE UNDER OPERATIMNAL MANAGEMENT OF STATE ORGANIZATIONS WHICH CAN BE SUED WITHOUT FEAR OF SOVEREIGN IMMUNITY BEING CLAIMED, THE FCO LEGAL ADVISERS RECOMMEND THAT THE USSR BE ACCEPTED AS A PARTY TO THE CONVENTION. HOWEVER, BEFORE MAKING A DECISION ON THIS ISSUE, THE FCO WOULD APPRECIATE OUR VIEWS ON THE FOLLOWING QUESTION -- ARE ALL VESSELS OWNED BY THE USSR AND USED FOR COMMERCIAL PURPOSES SHIPS OPERATED IN EACH CASE BY A (JURIDICAL) PERSON REGISTERED AS THE SHIP'S OPERATOR? THE FCO IS TRYING TO DEVELOP AN ANSWER TO THIS QUESTION BUT HAS, SO FAR, BEEN UNABLE TO DO SO. THE FCO MEMORANDA ALSO REVIEW QUESTIONS RELATED TO UK LAW WHICH, IF THE SOVIET RESERVATION WERE ACCEPTED, COULD CAUSE DIFFICULTIES WHEN SUIT IS BROUGHT AGAINST A SOVIET VESSEL IN THE UK COURTS.

4. WHEN THE DEPARTMENT HAS HAD AN OPPORTUNITY TO REVIEW THE FULL SOVIET RESPONSE AND THE FCO LEGAL VIEWS, THE EMBASSY WOULD APPRECIATE RECEIVING ANY VIEWS OR INFORMATION WE MAY PASS TO THE FCO IN RESPONSE TO THE QUESTION RAISED IN PARA 3 ABOVE.

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SPIERS

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## Message Attributes

**Automatic Decaptioning:** X  
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**Copy:** SINGLE  
**Draft Date:** 05 FEB 1976  
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**Disposition Approved on Date:**  
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**TAGS:** EWWT, UK, UR, IMCO  
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